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| APPLICATION NO.                               | FILING DATE    | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|---|----------------|----------------------|------------------------|------------------|
| 10/616,277                                    | 07/09/2003     | Robert M. Stern      | 537-0011               | 2086             |
| 7   | 590 08/25/2004 |                      | EXAMINER               |                  |
| CLIFFORD G. FRAYNE                            |                |                      | NGUYEN, TUAN N         |                  |
| 136 Drum Point Road, Suite 7A Brick, NJ 08723 |                |                      | ART UNIT               | PAPER NUMBER     |
| 211011, 110 00                                |                |                      | 3751                   |                  |
| ;   |                |                      | DATE MAILED: 08/25/200 | 4                |

Please find below and/or attached an Office communication concerning this application or proceeding.

| ,  | Application No.  | Applicant(s)   | NO         |  |  |  |
|--|--|--|------------|--|--|--|
|  | 10/616,277   | STERN, ROBERT M.   | U          |  |  |  |
| Office Action Summary  | Examiner   | Art Unit   |            |  |  |  |
|  | Tuan N. Nguyen   | 3751   |            |  |  |  |
| The MAILING DATE of this communication a Period for Reply  | appears on the cover sheet with the  | correspondence address   |            |  |  |  |
| A SHORTENED STATUTORY PERIOD FOR REF<br>THE MAILING DATE OF THIS COMMUNICATION  - Extensions of time may be available under the provisions of 37 CFR<br>after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a  - If NO period for reply is specified above, the maximum statutory peri  - Failure to reply within the set or extended period for reply will, by sta Any reply received by the Office later than three months after the may earned patent term adjustment. See 37 CFR 1.704(b). | N. 1.136(a). In no event, however, may a reply be ti reply within the statutory minimum of thirty (30) da iod will apply and will expire SIX (6) MONTHS fror tute, cause the application to become ABANDON | imely filed  ys will be considered timely.  In the mailing date of this communi  ED (35 U.S.C. § 133). | ication.   |  |  |  |
| Status   |  |  |            |  |  |  |
| 1) Responsive to communication(s) filed on 09  | ) July 2003  |  |            |  |  |  |
|  | his action is non-final.   |  |            |  |  |  |
| 3) Since this application is in condition for allow  |  | osecution as to the mer  | its is     |  |  |  |
|  | closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  |  |            |  |  |  |
| Disposition of Claims  |  |  |            |  |  |  |
| 4) ☐ Claim(s) 1-6 is/are pending in the applicatio 4a) Of the above claim(s) is/are withd 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-6 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and  | rawn from consideration.   |  |            |  |  |  |
| Application Papers   |  |  |            |  |  |  |
| 9) The specification is objected to by the Exam  | iner.  |  |            |  |  |  |
| 10) The drawing(s) filed on is/are: a) ☐ a   | ccepted or b) objected to by the   | Examiner.  |            |  |  |  |
| Applicant may not request that any objection to t  | he drawing(s) be held in abeyance. Se  | e 37 CFR 1.85(a).  |            |  |  |  |
| Replacement drawing sheet(s) including the corr  | ection is required if the drawing(s) is ol   | ojected to. See 37 CFR 1.1   | 21(d).     |  |  |  |
| 11)☐ The oath or declaration is objected to by the   | Examiner. Note the attached Office   | Action or form PTO-15  | 52.        |  |  |  |
| Priority under 35 U.S.C. § 119   |  |  |            |  |  |  |
| <ul> <li>12) Acknowledgment is made of a claim for foreignation</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority docume</li> <li>2. Certified copies of the priority docume</li> <li>3. Copies of the certified copies of the priority docume</li> <li>* See the attached detailed Office action for a light</li> </ul>  | ents have been received.<br>ents have been received in Applicat<br>riority documents have been receive<br>eau (PCT Rule 17.2(a)).  | tion No<br>red in this National Stage  | <b>e</b> . |  |  |  |
| Attachment(s)  |  |  |            |  |  |  |
| 1) X Notice of References Cited (PTO-892)  | 4) 🔲 Interview Summar  |  |            |  |  |  |
| 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail D   | Date Patent Application (PTO-152)  |            |  |  |  |
| <ol> <li>Information Disclosure Statement(s) (PTO-1449 or PTO/SB/0<br/>Paper No(s)/Mail Date</li> </ol>  | 6) Other:  | - wioni груповион (FTO+132)  |            |  |  |  |

## **DETAILED ACTION**

## Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 1. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fraher.

Fraher discloses a combination spa, spa cover, and spa cover support assembly as claimed comprising a spa as claimed (see Fig. 1), a support assembly as claimed (see Figs. 6-9) with a telescoping two piece pole with a plurality of vertically disposed alignable apertures for acceptance of a lock pin (see Figs. 7-9), and a spa cover (780) disposed over the spa and the support assembly so as to form a conical shape in the spa cover as claimed.

## Conclusion

- 2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kopyar et al., Hager et al., Del Gorio, Sr., and Joor II disclose other support assembly for a spa.
- 3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 703-306-9046. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Primary Examiner

Art Unit 37/61

TN